

May 5, 1989

LB 84

CLERK: Mr. President, Senator Conway would move to return the bill. (Conway amendment is on page 2141 of the Legislative Journal.)

PRESIDENT: Senator Conway, please.

SENATOR CONWAY: Mr. President and members, again I rise to offer the amendment that I was going to offer earlier this afternoon, but it is a better place now that the amendment...amended version of LB 84 now is attached. This would be where the place would be. We'd be talking about striking Section 21, which is the reverse severability provision that is in the bill now, and converting that back to a severability provision as we normally do things. From what I understand the reverse severability clause is...no one has ever, in their memory at least, short of the research, has ever seen such a thing before. I think what we may be doing in this situation, hopefully, and at this point after reading the Constitution, reading the various opinions that the Attorney General has put forth relative to the way LB 809 or LB 84 were in the past, and the changes that were made, I am very comfortable that there would probably not be any challenges of constitutionality that would come down relative to 84 the way it is written. So I'm not overly concerned about it. What I am concerned about is the potential that after we have gone through this, as we have read the headlines in the newspapers for the last few days, with people announcing that this is the year of the taxpayer, and this is what is going to happen, and little models showing them how to calculate the probability of what kinds of return they're going to get under this bill, that I would hate to see that apple cart upset by virtue of some process determination, the category of central assessment, or even the potential, as I'm sure Senator Lamb is concerned, about the ag land being the item that is constitutional, and therefore, we don't want to spend any money on any provision if we don't have each one of our segments there. I'm not worried about it in that sense, but I think for protection sake that reverse clause, as it is designed in that particular bill, is maybe a bit of a dangerous precedent to have in the bill, for one. And, for two, it may not be the classes of property that ultimately make it unconstitutional, but some other procedural thing that may be found as the way we're administering it, or something else. And I think that any provision we've got on deck that would provide property tax relief to any one of these categories ought to be preserved with a regular severability

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